

PROPOSALS TO CHANGE
SEN. BARTLETT'S or REP. FLETCHER'S
DRAFT PROPOSALS

FROM INTERESTED ENTITIES

1. CMP
2. BHE
3. Patti Aho
4. "Group A" (various entities)
5. NRCM
6. Maine Tomorrow
7. Opportunity Maine
8. Ruben Brown

CMP PROPOSED AMENDMENT

Amendment to Part F of Sen. Bartlett's Proposal

4. Duties; corridors; plan. The commission shall examine the feasibility and effects of the state entering into agreements for leasing or otherwise allowing the use of state-owned lands or assets, including submerged lands, the rights-of-way of the state highway system, the federal interstate highway system, state-owned or state-controlled rail corridors or other state transportation corridors, for the installation of lines, cables, pipelines or other structures for the transmission of energy resources, communication transmission systems or related facilities. The commission shall develop a recommended plan governing such agreements that addresses at least the following:

A. Appropriate valuation, pricing and allocation methodologies to maximize the long-term public value through the most efficient and effective use of the state-owned lands and assets; and

B. The potential effect of such agreements on renewable energy development in Maine; the development of other energy projects in Maine, including but not limited to liquefied natural gas terminals; energy consumers and ratepayers; and natural resources and the environment.

In developing the plan, the commission shall review and analyze the information, analysis and results of the *New England States Regional Energy Blueprint* being prepared by ISO-NE for the New England Governors and the New England States' Committee on Electricity. The commission shall also examine and monitor proposed or pending federal energy legislation that may significantly affect energy policy in this State. The commission may also examine how Maine's electric transmission systems, including new lines, system upgrades or the development of a smart-grid, or natural gas systems, including pipelines and liquefied natural gas terminals can help Maine achieve its energy goals.

Deleted: and develop findings and recommendations concerning other proposed or potential energy infrastructure and transmission projects that may have significant effects on state energy policy, including but not limited to projects relating to



May 8, 2009

Jon P. Clark, Deputy Director
Office of Policy and Legal Analysis
13 State House Station
Augusta, ME 04333-0013

Re: Maine's Energy Future Committee: Comments on Draft Committee Bill and Subsequent Amendment

Dear Jon:

On behalf of Bangor Hydro Electric Company, I respectfully submit the following comments regarding the proposed amendment to An Act Regarding Maine's Energy Future DRAFT COMMITTEE BILL, proposed by Senator Bartlett, and found at OPLA DRAFT PAGE 48.

The Bartlett Proposal

Legislative language first offered by Senator Bartlett proposes to establish the Commission to Study Energy Infrastructure. It establishes a timeline within which the Commission is to perform its study. During the study period, a state authority is barred from entering into a significant occupancy agreement allowing the longitudinal installation of energy facilities in state transportation corridors. The proposal expressly allows the continued undertaking of feasibility studies and explorations while the Commission is performing its study.

The terms of the original proposal were of particular interest to Bangor Hydro because Bangor Hydro has been pursuing a potential transmission line running from Orrington south to the New Hampshire border. *The goal of our transmission project is to lower energy costs for ratepayers in Maine and in the region, to enable renewable generation in Maine, and to diversify Maine's energy supply.* The state's transportation corridor is a route for the transmission line that Bangor Hydro has been studying and one that could have great benefits for both the project and the State of Maine.

We believe that the maximization of the transportation corridors and co-location of essential infrastructure presents some very positive opportunities for the State of Maine. Our primary concern with the proposal is the message that is sent by the imposition of a moratorium. A moratorium could be perceived by many as a measure of dysfunction in Maine regarding its potential to position itself in the center of some positive energy solutions for the entire region. We believe this is the wrong message to broadcast at the wrong time.

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The Martin Amendment

The revision to the original proposal submitted by House Chair Martin broadens the prohibition to all transmission projects (not just those in transportation corridors) that are 50 miles long or longer. The revision establishes a moratorium with no clear end date. Finally, it prohibits feasibility studies of viable transmission routes in Maine. Whereas the original moratorium language ran the risk of broadcasting a modicum of ambivalence amongst Maine policy makers regarding electric transmission development, the revision broadcasts an open hostility towards transmission development as though all transmission projects were alike. We also fear that such an approach could unintentionally impact our Downeast Transmission Project, a project with substantial benefits to, and support from, the Downeast Maine region.

We respectfully urge that if this Committee deems it necessary to establish a study commission, that it do so in a measured way that allows for a collaborative effort at gathering information that will allow Maine to best position itself for success. The original language proposed could accomplish the apparent goals of the proposal without unnecessarily putting a cloud over the prospects for very beneficial development within the State of Maine.

Respectfully Submitted,



Michael K. Mahoney, Esq.
Federle Mahoney
Legislative Counsel to Bangor Hydro Electric Co.

**Pattie Aho proposed amend to
Rep. Martin Amendment to
Sen. Bartlett's proposal**

New paragraph insert at the end of Section 2 of the Martin Amendment:

“Nothing in this section is intended to apply to the operation, maintenance or alteration of existing pipeline facilities or their appurtenances, including but not limited to tanks, piers, pumps and valves, that were installed prior to the effective date of this Act, even if such operation, maintenance or alteration activity requires a permit from any state authority. Nothing in this section prohibits any state authority from entering into a submerged lands lease for any pier and appurtenances, provided the application for such lease was pending prior to the effective date of this Act.”

Group A

May 8, 2009

Chairman Bartlett
Chairman Martin
Select Committee on Maine's Energy Future
Augusta, ME 04330

We believe that legislation approved by this committee has the potential to significantly advance efforts to maximize energy efficiency, conservation and weatherization in Maine over the long term, which will benefit our economy, improve energy costs and security, and reduce pollution. Doing so depends on at least three key elements, all of which are considered in Senator Bartlett's draft:

1. An effective, efficient entity—and process—to plan and oversee programs;
2. Sustained, long-term funding to ensure that programs succeed; and
3. A well-trained, qualified workforce to deliver efficiency products and services.

Our suggested redlines cover all three, but give special emphasis on the first. The nature of the Efficiency Maine Trust is not only the foundation upon which we will succeed or fail, it is also the hardest to modify once we are on our way. In addition, although we do not have consensus about the exact timing and form of long-term funding, **we all agree that if and when the state implements a heating fuel System Benefit Charge, those funds must be administered by the most effective entity possible, one that is largely independent from the ordinary functioning—and budget pressures—of state government.** While the entity must be accountable to the public through statutory guidance, a diverse stakeholder board of trustees, and government oversight, it can and should be run on a daily basis more like a business whose output is performance measured in energy and costs saved. It must of course be transparent and inclusive.

Fortunately the committee does not need to invent a new solution to this challenge. Rather the committee would be wise to heed significant history and evidence about what works in this arena. Maine's Energy & Carbon Savings (RGGI) Trust provides an existing model in Maine law, though incomplete, for an independent Trust with the necessary powers and responsibilities to spend public dollars in pursuit of cost-effective energy efficiency. Beyond Maine, we have the experience of dozens of other states with multi-fuel efficiency programs. One pattern is crystal clear: **states do not rely on government entities to administer efficiency programs.** Instead they use a variety of more independent entities with flexibility, ability to attract the best and brightest employees, and accountability for performance. They have utility-like functions but deliver energy savings to customers instead of kilowatts. They universally rely on Public Utilities Commissions to provide a check on spending ratepayer money, act as an objective evaluator of performance, and provide the basic rules under which programs are designed and run. Although Maine was previously unique in assigning program delivery to its PUC, it should not replace that with a similarly unique and awkward situation where the commission plays no role.

9/15/11

Senator Bartlett's draft goes much of the way toward this direction. We believe a few changes still need to be made—some of which will be recognized as an attempt to utilize the model of the well-respected and highly effective Maine Technology Institute. Although it isn't in the business of energy efficiency, it is in fact the closest thing in Maine to the most effective energy efficiency entities in other states, including Efficiency Vermont. MTI wasn't granted wide-ranging government powers because it didn't need them—instead it was given the flexibility and independence to pursue results. (The Energy & Carbon Savings Trust does have rulemaking ability, thus the legislature has precedent to go in either direction on this matter—the attached edits illustrate how the entity could be “leaner” and more focused without rulemaking authority.)

Most of the other suggestions attached deal with the second key element, funding. Because the draft contemplates a process for getting to a solution, rather than the details of that solution, we believe it is essential that this law provide a few additional provisions to lay the groundwork for the proper use of a Heating Fuel Efficiency and Weatherization Fund. Finally we submit one change with regard to workforce, which would allow the Trust more latitude to recognize other private or public entities which can provide training to the Trust's established certification standards.

Sincerely,

Jeff Hanson, Energy Management Consultants
Brian McCowan, Energy & Resource Solutions (Prime Contractor for Efficiency Maine)
Michael Stoddard, Environment Northeast
Steve Hudson, Industrial Energy Consumers Group
Bob Howe, Maine Association of Building Efficiency Professionals
Ashley Richards, Homebuilders and Remodelers Association of Maine
Chris Jackson, Maine State Chamber of Commerce
Doug Baston, North Atlantic Energy Advisors
Dylan Voorhees, Natural Resources Council of Maine
Phil Coupe, ReVision Energy

Group A

An Act Regarding Maine's Energy Future

JOINT SUGGESTED REDLINES FROM NRCM ET AL ON DRAFT COMMITTEE BILL Proposed by Senator Bartlett

§10102. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. **Administrative costs.** "Administrative costs" means costs of Efficiency Maine Trust in carrying out its responsibilities under this chapter, including, but not limited to, costs of:

- A. Program planning, implementation and evaluation;
- B. Securing necessary expertise;
- C. Contracting for program delivery; and
- D. Monitoring and enforcing contractual obligations.

§10103. Efficiency Maine Trust

1. **Establishment; purpose.** The Efficiency Maine Trust, as established in Title 5, section 12004-G, subsection 10-C, is a nonprofit corporation with public purposes defined in this chapter a public body corporate and politic and instrumentality of the state exercising essential government functions. The trust is established to:

...

D. Actively promote investment in cost-effective energy efficiency measures that reduce overall energy costs for Maine consumers.

§10104. Duties.

3. **Measures of performance.** The trust shall develop quantifiable measures of performance to which it will be held accountable by the commission. Measures of performance must be negotiated established between the trust and the commission and must be ratified by the commission, as provided in section 10119, prior to being incorporated into the triennial plan under subsection 4...

4. **Triennial plan.** The board shall vote on a detailed, triennial energy efficiency and conservation plan and make a full report of the vote to the commission in accordance with this subsection. The triennial plan must provide integrated planning, program design and implementation strategies for all energy efficiency and conservation programs administered by the trust, including but not limited to the electric efficiency and conservation programs under section 10110, the natural gas efficiency and conservation

programs under section 10111, the Regional Greenhouse Gas Initiative Trust Fund under section 10109, the Heating Fuels Efficiency and Weatherization Fund under section 10118, and any state or federal funds or publicly directed funds accepted by or allocated to the trust for the purpose of investing in energy efficiency programs in the State.

A. The triennial plan must be developed by the trust, in consultation with entities and agencies engaged in delivering efficiency programs in the State, including but not limited to Community Action agencies, weatherization contractors, heating system vendors, natural gas utilities, and building professionals, to authorize and govern implementation of energy efficiency and weatherization programs in the State.

...

(3) A designated state agency, community action agency or unit of local government eligible to apply for funds under 42 United States Code, Section 6863(c) shall submit to the trust for review and approval an initial 3-year implementation plan to be incorporated into the triennial plan. An agency or unit of local government may not submit any annual plans or application to the federal government pursuant to 42 United States Code, Section 6864 or make expenditures for purposes of implementing federal Weatherization Assistance Program funds until the board reviews and approves the plan or application. In reviewing the plan or application the board shall consider if it has been developed in an inclusive and transparent process and is consistent with the rest of the triennial plan, best practices of program administration, the state energy efficiency targets under paragraph F and the objective of integrating delivery of thermal and electric efficiency measures to the maximum extent practicable.

...

H. Prior to submission of the triennial plan to the commission, the Trust shall provide a detailed briefing on the draft plan to the committee of the legislature having jurisdiction over utilities and energy and provide opportunity for input.

7. **Certification.** The trust shall by rule establish certification standards for energy auditors, installers of energy efficiency measures, or other service providers that provides services under programs administered by the trust. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2 A.

§10105. Powers.

4. **Purchasing agent rules.** Notwithstanding Title 5, section 1831, the trust is not subject to rules adopted by the State Purchasing Agent in selecting service providers pursuant to this subsection. The trust shall adopt rules establishing establish procedures governing the selection of service providers under this section. The trust shall consult with the State Purchasing Agent in developing the rules.

5. Rules. The board shall adopt follow rules adopted by the commission for establishing and administering the trust and its programs. The Trust may also propose to the Commission additional rules or amendments to existing rules that would further aid the Trust in the execution of its programs under this chapter. These rules must include:

[Note: These rules already exist under commission and Energy & Carbon Savings Trust] A. Provisions for the expenditure of trust funds, including, but not limited to, the development of program budgets, criteria for energy efficiency and conservation programs and other consumer benefit programs, the process for project selection and approval, minimum requirements for project monitoring and verification and the cost-effectiveness tests to be used for measuring and comparing program benefits and costs; and

[These should be commission rules; these exist in part, too] B. Provisions for the independent evaluation of program expenditures to ensure cost-effectiveness of projects to improve energy efficiency or to reduce greenhouse gases.

[From MTI statute] **7. Limitation of Powers.** The Trust may not enter into contracts, obligations or commitments of any kind on behalf of the State or any of its agencies. Bonds, notes and other evidences of indebtedness of the institute may not in any way be a debt or liability of the State or constitute a pledge of the faith and credit of the State.

§10108. Liability.

[From MTI statute] The trust is a government entity under the Maine Tort Claims Act and the liability and immunity of the trust, trustees, the director and all other employees of the trust are governed by that act. All trustees, employees and other agents of the Trust entrusted with the custody of the securities of the Trust or authorized to disburse the funds of the Trust must be bonded either by a blanket bond or by individual bonds with a minimum limitation of \$100,000 coverage for each person covered by the bond or bonds, or equivalent fiduciary liability insurance, conditioned upon the faithful performance of their duties. The premiums for the bond or bonds must be paid out of the Administration Fund of the Trust under section 10103.

§ 10111. Electric efficiency and conservation programs

10. Rules. The commissiontrust shall adopt rules necessary to implement this sectionssubsection. The commission shall adopt rules necessary to implement this subsection. The trust shall be subject to those rules. The Trust may also propose to the Commission additional rules or amendments to existing rules that would further aid the Trust in the execution of its programs under this chapter. Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A2-A.

§10111 101102. Natural gas conservation program

3. Rules. ~~The commissiontrust shall adopt rules necessary to implement this sectionsubsection.~~ The commission shall adopt rules necessary to implement this subsection. The trust shall be subject to those rules. The Trust may also propose to the Commission additional rules or amendments to existing rules that would further aid the Trust in the execution of its programs under this chapter. Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§ 10114. Training for energy auditors

1. Auditor training. To the extent that funds and resources allow, the trust shall set standards for training programs for energy auditors that most effectively meet the needs of the public and that satisfy the requirements of funding sources. For the purposes of this subsection, an energy auditor is a person who is trained to prepare a report that delineates the energy consumption characteristics of a building, identifies appropriate energy efficiency operations and maintenance procedures and recommends appropriate energy efficiency measures. The trust:

...
H. Shall recognize other established training programs which offer certification consistent with the trust's energy auditor training standards.

§ 10115. Federal energy programs

1. Programs. The trust shall oversee and administer:

A. The Office of Energy Independence and Security in the Executive Department shall oversee and administer the United States Department of Energy State Energy Program, subject to the provision of section 10118 subsection 1; and

B. The trust shall oversee and administer other federally funded programs and projects related to Trust programs.

§ 10118. Heating Fuels Efficiency and Weatherization Program

1. Fund established; use of money. There is established Heating Fuels Efficiency and Weatherization Fund, referred to in this subsection as "the fund". The fund is a nonlapsing fund and is administered by the Efficiency Maine Trust in accordance with this section. Any interest earned on funds in the fund must be credited to the fund and funds not spent in any fiscal year remain in the fund to be used in accordance with this subsection. The trust may receive and deposit in the fund funds from the following sources:

...

[From LD 886] All funds received by the State from the federal government for purposes of promoting energy efficiency and weatherization in buildings, other than funds directed to the benefit of low-income consumers, shall be transferred to the Efficiency Maine Trust by appropriate agreement and deposited in the Heating Fuels Efficiency and Weatherization Fund, so long as the Trust determines that any criteria or limitations associated with the use of such federal funds are consistent with the objectives, criteria and programs established by the trust to implement this section.

The trust may annually deposit funds received pursuant to this section into the administration fund, up to a maximum in any fiscal year of 10% of the revenues received under this section.

[From existing PUC electricity & gas conservation fund statutes] Any funds collected from heating fuel consumers pursuant to this section are collected under the authority and for the purposes of this section and are deemed to be held in trust for the purposes of benefiting heating fuel consumers. In the event funds are not expended or contracted for expenditure within 2 years of being collected from consumers, the commission shall return the value of those funds to consumers by appropriate reductions in any assessment collected pursuant to this section.

[From LD 886] Money from the Heating Fuels Efficiency and Weatherization Fund must be used in accordance with the following:

A. All funds deposited in the Heating Fuels Efficiency and Weatherization Fund must be administered by the Efficiency Maine Trust to reduce heating fuel consumption consistent with the purpose and targets of the trust and the triennial energy efficiency and conservation plan under section 10009.

B. Funds from the Heating Fuels Efficiency and Weatherization Fund may only be used for programs that provide cost-effective energy efficiency and weatherization measures for the benefit of heating fuel consumers or to efficiency service providers serving those customers and in accordance with the following:

(1) Program categories must include low-income, single-family and 2-family residential units, multifamily residential units, small business, commercial and institutional and such other categories as the Efficiency Maine Trust determines appropriate.

(2) Within program categories, the Efficiency Maine Trust may differentiate between programs for new construction and in existing buildings.

C. Program designs approved by the Efficiency Maine Trust must contain:

- (1) Incentives to consumers to purchase and install cost-effective efficiency and weatherization products and services identified by a certified assessor, except in the case of programs to deliver education, training or certifications;
- (2) A schedule of customer copayments and loan options for prescribed products and services. Programs for low-income consumers may provide exemptions from the copayment and schedule;
- (3) A plan for integrating delivery of heating fuel efficiency and weatherization measures with electric efficiency measures; and
- (4) A system for the equitable allocation of costs among the contributing funds or subaccounts administered by the trust where more than one thermal, electric or carbon-reducing efficiency opportunity is achieved.

D. Other eligible measures for the Heating Fuels Efficiency and Weatherization Fund may include, but are not limited to training or certification of energy auditors, insulation installers, mechanical heating system installers and maintenance technicians and building energy inspectors.

E. Nothing in this section shall supersede the plan for federal ARA money submitted by the commission and approved the by the legislature. [This language needs to be tightened.]

...

3. Rulemaking. ~~The board may adopt rules to implement this section.~~ The commission shall adopt rules necessary to implement this subsection. The trust shall be subject to those rules. The Trust may also propose to the Commission additional rules or amendments to existing rules that would further aid the Trust in the execution of its programs under this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§ 10119. Commission oversight of Efficiency Maine Trust

1. Negotiated measures of performance. The commission shall negotiate establish measures of performance with the Efficiency Maine Trust to be incorporated in the triennial plan. The commission shall ratify final measures of performance if it finds that these measures satisfy the requirements of this chapter, including the principles described in section 10104, subsection 2, as well as explicit additional direction from the Legislature pursuant to section 10104, subsection 4. G., if any, and are in the public interest. The commission and the trust may revise one or more of the measures of performance at any time by mutual agreement.

PART C

15. Heating Fuels Efficiency and Weatherization Program. The board of Efficiency Maine Trust, in consultation with stakeholders, shall develop a proposed heating fuel weatherization and efficiency program to implement Title 35-A, section 10118 through the use of a system benefit charge on # 2 heating oil, kerosene, propane and ~~wood fuel used for heating purposes, including cord wood and~~ wood pellets. The proposal must include specific assessment and collection mechanisms and amounts for the system benefit charge, identification of the appropriate entities to be assessed and provisions for appropriate exceptions and rebates, including but not limited to exceptions or rebates for low-income consumers. By the first Monday in January ~~2010~~ 2011, the trust shall submit its proposal together with draft legislation to implement the proposal to the joint standing committee of the Legislature having jurisdiction over utilities and energy, which, after receiving the report, may submit legislation relating to heating fuel weatherization and efficiency programs and a system benefit charge on heating fuels. The trust shall also identify changes in the proposed program and funding mechanism which would be required to obtain all achievable, cost-effective heating efficiency potential in the state, as identified by studies conducted by the Public Utilities Commission.

PROPOSED AMENDMENT
suggested by Natural Resources Council of Maine

DRAFT COMMITTEE BILL
Proposed by Senator Bartlett

§10103. Efficiency Maine Trust

1. Establishment; purpose. The Efficiency Maine Trust, as established in Title 5, section 12004-G, subsection 10-C, is a public body corporate and politic and instrumentality of the state exercising essential government functions. The trust is established to:

...

B. Reduce energy costs and improve security of the state and local economies. The trust shall administer cost-effective energy efficiency programs to help families individuals and businesses meet their energy needs at the lowest cost and generally to improve the economic security of the State by:

§10104. Duties.

4. Triennial plan. ...

F. It is an objective of the triennial plan to design, coordinate and integrate sustained energy efficiency and weatherization programs that are available to all energy consumers in the State, regardless of fuel type, that advance the targets of:

(3) Saving residential and commercial heating consumers not less than \$3 for every \$1 of program funds invested by 2020 in heating and cooling cost effective measures that cost less than conventional energy supply;

(5) Reducing greenhouse gas emissions from the heating and cooling of buildings in the State by amounts consistent with the State goals established in Title 38, section 576.

§ 10111. Electric efficiency and conservation programs

[Why another admin fund? This money should be deposited in the overall admin fund] **6. Conservation administration fund.** ~~The trust shall establish a conservation administration fund to be used solely to defray administrative costs. The commission, at the direction of the trust, may annually deposit funds collected pursuant to this section into the administration fund of the trust as established in section 10103.~~

subsection 6 up to a maximum in any fiscal year of \$1,300,000 up to 9% of total funds received pursuant to subsections 4 and 4-A. Any interest on funds in the administration fund must be credited to the administration fund and any funds unspent in any fiscal year must either remain in the administration fund to be used to defray administrative costs or be transferred to the program fund.

§ 10116. Energy Conservation Small Business Revolving Loan Program

1. Program and fund. The trust shall establish the Energy Conservation Small Business Revolving Loan Program, referred to in this subsection as "the program," and the Energy Conservation Small Business Revolving Loan Fund, referred to in this subsection as "the fund." The fund consists of federal capitalization grants and awards made to the State for the purposes for which the fund is established; any amounts that the trust deposits in the fund from the assessment on public utilities pursuant to Title 35-A, section 10111, section 10112 and section 10118; principal and interest received from the repayment of loans made from the fund; any interest earned on investment of fund balances; and any other funds from any public or private source received for use of any of the purposes for which the fund is established. The fund is a nonlapsing revolving fund account.

PART C

Transition.

Sec. E-1. Transition. The following provisions apply to the establishment of Efficiency Maine Trust pursuant to the Maine Revised Statutes, Title 35-A, chapter 97.

5. Rules. ~~On July 1, 2010, all rules adopted by the Public Utilities Commission pursuant to Title 35-A, sections 3211-A, 3211-C and 4711 and Title 35-A, chapter 95, and rules adopted by the Energy and Carbon Savings Trust pursuant to Title 35-A, section 10008 are deemed to be rules of Efficiency Maine Trust and continue in effect until amended or rescinded by Efficiency Maine Trust.~~

9. Employees of the Public Utilities Commission. Employees who were employees of the Public Utilities Commission energy efficiency or renewable energy programs on June 30, 2009 retain their employee rights, privileges and benefits, including sick leave, vacation and seniority, provided under the Civil Service Law or collective bargaining agreements, unless they accept employment with Efficiency Maine Trust in which case, they *shall elect whether to continue as state employees for up to one year or to work under new agreements.* For employees who are not offered or who do not accept employment at Efficiency Maine Trust, the Department of Administrative and Financial Services, Bureau of Human Resources shall provide employment assistance.

MAINE TOMORROW
PROPOSED AMENDMENT TO SEN. BARTLETT'S PROPOSAL

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PART E (§4862 (3))

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3. Program elements. The authority shall achieve the purposes of the program by applying the resources of the program to support construction or substantial rehabilitation of multifamily affordable rental housing units; and replacement of manufactured housing units that do not meet the United States Department of Housing and Urban Development regulations, 24 Code of Federal Regulations, Part 3280. The resources of the program shall be allocated in the following manner:

A. At least 30% to the construction or substantial rehabilitation of multifamily affordable rental housing units serving seniors, as defined by the authority by rule;

B. At least 30% to the construction or substantial rehabilitation of multifamily affordable rental housing units serving persons of any age, as defined by the authority by rule;

C. At least 10% to the construction or substantial rehabilitation of multifamily affordable rental housing units serving populations with special needs, as defined by the authority by rule; and

D. At least 10% to the replacement of manufactured housing units that do not meet the United States Department of Housing and Urban Development regulations, 24 Code of Federal Regulations, Part 3280. No more than 50% of these funds may be allocated for "newer mobile homes," as described in section 4358, subsection 1, paragraph A, subparagraph (1).

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E. The authority's rules shall provide for the needs of rural communities through flexible standards for development size and income eligibility. No more than 30% shall be allocated to projects of all types under these flexible standards.

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OPPORTUNITY MAINE RECOMMENDATIONS FOR CHANGES TO SENATOR BARTLETT'S PROPOSED BILL

I. SUMMARY

Opportunity Maine recommends some minor changes, adoption of miscellaneous ideas that have come before the Committee, adoption of smart grid language, adoption of firmer efficiency goals (ideally in the form of an Energy Efficiency Resource Standard), and several changes to workforce development provisions.

II. MINOR AND TECHNICAL CHANGES

Apply program requirements to all fuels. Certain program requirements, such as reasonable equity among customer classes and geographic regions, appear in electric system benefit charge provisions but not in heating fuel or natural gas system benefit charge provisions. They are especially important for heating fuel.

Natural gas system benefit charge. Ensure that typo is corrected and minimum SBC remains 3%. It is our understanding that Senator Bartlett has already agreed this should happen.

MSHA bonding debt service. In Sec. 5. 36 MRSA §4641-B, sub-§4, ¶A-3, MSHA must certify the amount needed to “meet its obligations” regarding any bonds. If it hasn’t already, the Committee may wish to consult with bond counsel to see whether additional specificity is required. For example, a 2:1 revenue to debt service ratio would be needed to meet obligations in issuing a new bond, 1.25:1 necessary to retain an AA rating, and close to 1:1 to simply pay debt service, potentially at a lower rating.

III. MISCELLANEOUS SUGGESTIONS

A. Schools and Energy Service Companies

Sec. C-9 amends 20-A MRSA §15915, which allows school administrative units to use energy service companies to make energy conservation and air quality improvements. The committee should follow LD 1181 in allowing longer-term contracts, including distributed renewable energy technology and load management, and allowing larger contracts than \$2,000,000 if risk of failure to obtain savings rests on the ESCO.

Sec. H-1 of LD 1181 makes changes to the Efficiency Partners Program, through which the MMBB helps school administrative units and municipalities hire energy service companies to make efficiency and air quality improvements. LD 1181 expands the program to investments in distributed renewable energy technology and load management, and specifies the respective responsibilities of the MMBB and the efficiency entity in administering the program. The committee should do the former and

may wish to do the latter. The MMBB may believe that this language may impact projects other than what is described here. Opportunity Maine believes that is not the case.

B. Municipal efficiency loan programs

LD 1181, Sec. G-4 allows municipalities to create efficiency loan programs and collect through the property tax system. This is a purely voluntary option that the Committee should allow.

C. Utility cooperation in providing information

Most efficiency programs have found utility cooperation in providing energy use data essential, so the language in Sec. I-6:

6. Cooperation in gathering and analyzing data. A transmission and distribution utility or a gas utility shall cooperate with the trust and with the commission in providing information from the utility's operations and other sources to evaluate the trust's performance and to effectuate the purposes of chapter 97. To the extent that information provided is designated confidential by statute or is otherwise exempt from the definition of "public records" under Title 1, section 402, the trust and the commission shall treat the information as confidential, and such information does not become a public record merely by virtue of being in the possession of the trust or the commission. The trust and the commission shall ensure transparency by means other than public disclosure of such information when such information is considered or used by the trust or the commission in undertaking its functions under law.

D. Inclusion of State Planning Office on board

Given the trust's planning functions and economic importance, and ex officio board slot for a representative from the State Planning Office may be appropriate.

E. Additional duties for board

LD 1181 includes some language to strengthen use of information technology and ensure that program spending results in business opportunities and good-paying jobs and workforce development in the community served:

B. Obtain or develop a publicly accessible computer program to enable contractors, builders, architects, engineers and government officials to estimate the energy consumed by residential and nonresidential buildings. The administrator may charge a fee approved by the board for use of the program, based upon the actual costs of the program, including any computer costs. The administrator shall require that any work performed pursuant to Efficiency Maine's programs make use of such information technology as is necessary to facilitate evaluation of Efficiency Maine's performance, ensure maximum eligibility of projects for forward capacity market

payments administered by the regional transmission organization or other capacity payments that may be attributable to projects funded in any measure by Efficiency Maine;

C. Prescribe qualifications for contractors performing work pursuant to the trust's programs, taking due account of workforce development programs and policies. Contractors and subcontractors must be equal opportunity employers and, for contracts in excess of \$250,000, shall pursue in good faith affirmative action programs as defined in Title 5, section 782. The administrator shall be the final arbiter of whether a contractor has the required qualifications or whether a training program is adequate to meet that qualification level;

K. Require contractors receiving funds from the trust to make best efforts to hire workers for a job from within the county where the job is located;

L. Ensure that projects that are directly or indirectly subsidized by the trust meet the standards in Title 26, sections 1301 and 1304 to 1313;

M. Ensure that contractors, whose work is directly or indirectly subsidized by the trust, in filling labor requirements make best efforts to coordinate with local workforce development programs, including but not limited to apprenticeship programs and programs that primarily serve low-income residents or people with disabilities, with a target of filling at least 20% of jobs created with individuals who have been unemployed for longer than 6 months, are clients of the Department of Labor's career center or have family income equal to or below 200% of the federal nonfarm income official poverty line;

N. To the extent practicable, encourage the development of resources, infrastructure and skills within the State by giving preference to in-state service providers;

F. General obligation bond for public buildings

The Committee may wish to consider a GO bond for efficiency investment in public buildings at all levels. As much as \$90 million of work could be done at the state, county and municipal level over several years. The bond could be structured as revenue neutral, with savings achieved paying the debt service. Demonstrating that properly structured financing for efficiency measures can pay back within an acceptable timeframe would set a good example for the private sector and strengthen the ability of Efficiency Maine Trust to achieve its mission for the long-term.

IV. SMART GRID

Richard Silkman's proposed smart grid legislation reflects changes that Opportunity Maine recommended, and we urge the committee to include the language in the bill. Passage of smart grid legislation will be important in ensuring a thorough evaluation of options to meet future demand in the Maine Power Reliability Project case, and may also be important in obtaining energy-related discretionary grants under the American Recovery and Reinvestment Act (ARRA).

V. ENERGY EFFICIENCY GOALS

The bill should contain firmer targets for energy efficiency and buildings served. LD 1181 proposed 30% reduction in electric and natural gas usage and 16.5% reduction in heating fuel usage over ten years. Specification of what portion of the commercial and residential building stocks are to be served are also important. If the Committee wants a more detailed framework for measuring energy savings, it can adapt Sec. J-15.

§ 10009. Energy efficiency resource standard

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Base quantity" means:

(1) With respect to a transmission and distribution utility or a gas utility, the total quantity of electric energy or natural gas delivered by the utility to retail customers in the State, other than natural gas delivered to a competitive electricity provider for purposes of electricity generation, during the most recent calendar year for which information is available; or

(2) With respect to a heating fuel wholesaler, the total quantity of home heating oil, kerosene or liquefied petroleum gas delivered for resale in the State through retail outlets and retailers, for the purpose of cooking or heating, during the most recent calendar year for which information is available.

D. "Combined heat and power savings" means the increment of electric output of a new combined heat and power system, combined cooling, heating and power system or similar technology that is attributable to the higher efficiency of the combined system as compared to the efficiency of separate production of the electric, cooling and thermal outputs, as determined in accordance with rules adopted by the commission. For purposes of this paragraph, "new combined heat and power system" means a system that uses the same energy source for the generation of electrical or mechanical power and the production of cooling or steam or another form of useful thermal energy, if:

(1) The facility at which the system is used meets requirements relating to efficiency and other operating characteristics established by the commission by rule;

(2) The net wholesale sales of electricity by the facility will not exceed 50% of total annual electric generation by the facility; and

(3) The facility commences operation after the effective date of this section.

E. "Customer facility savings" means a reduction in end-use electricity, natural gas or heating fuel consumption, including recycled energy savings, at a facility of an end-use consumer of electricity or natural gas served by a transmission and distribution utility or a gas utility, or of heating fuel, as compared to:

(1) Consumption at that facility during a base year, as determined in accordance with rules adopted by the commission;

(2) In the case of new equipment, regardless of whether the new equipment replaces existing equipment at the end of the useful life of the existing equipment, consumption by new equipment of average efficiency, as determined in accordance with rules adopted by the commission; or

(3) In the case of a new facility, consumption at a reference facility, as determined in accordance with rules adopted by the commission.

F. "Electricity savings" means, as determined in accordance with rules adopted by the commission:

(1) Customer facility savings of electricity consumption, adjusted to reflect any associated increase in fuel consumption at the facility;

(2) Customer facility reductions in demand on the electricity distribution system achieved through use of distributed renewable energy technology, adjusted to reflect any associated increase in fuel consumption at the facility;

(3) Reductions in distribution system losses of electricity achieved by a transmission and distribution utility, as compared to losses attributable to new or replacement distribution system equipment of average efficiency; and

(4) Combined heat and power savings.

G. "Heating fuel savings" means, as determined in accordance with rules adopted by the commission, customer facility savings of heating fuel consumption, adjusted to reflect any associated increase in other fuel or electricity consumption at the facility, except to the extent that the increased consumption results from use of distributed renewable energy technology.

H. "Heating fuel wholesaler" means a person that sells home heating oil, kerosene or liquefied petroleum gas for resale in the State through retail outlets and retailers, for the purpose of cooking or heating.

I. "Natural gas savings" means, as determined in accordance with rules adopted by the commission:

(1) Customer facility savings of natural gas, adjusted to reflect any associated increase in electricity or fuel consumption at the facility, except to the extent that the increased consumption results from use of distributed renewable energy technology; and

(2) Reductions in leakage, operational losses and natural gas fuel consumption in the operation of a gas distribution system achieved by a gas utility, as compared to similar losses during a base year.

J. "Recycled energy savings" means a reduction in electricity, natural gas or heating fuel consumption that is attributable to electrical or mechanical power, or both, or thermal energy, produced by modifying an industrial or commercial system that was in operation before the effective date of this section in order to recapture energy that would otherwise be wasted.

2. By December 31, 2019, the trust shall achieve electricity savings, natural gas savings and heating fuel savings equal to at least 30% of the demand for energy in buildings and industrial facilities from those sources, as projected by the commission, and verified in accordance with subsection 3. The trust shall meet annual benchmarks toward that goal. The contract with the administrator of Efficiency Maine under section 10106 must establish and require the administrator to meet the benchmarks.

3. **Measurement and verification of savings.** Not later than 6 months after the effective date of this section, the commission shall adopt rules regarding measurement and verification of electricity savings, natural gas savings and heating fuel savings under this section, including:

A. Procedures and standards for defining and measuring electricity savings, natural gas savings and heating fuel savings reported by the trust, which must:

(1) Specify the types of energy efficiency and energy conservation measures that will be eligible for the credits;

(2) Require that energy consumption estimates for customer facilities or portions of facilities in the applicable base and current years be adjusted, as appropriate, to account for changes in weather, level of production and relevant facility area;

(3) Account for the useful life of electricity savings measures;

(4) Include deemed savings values for specific, commonly used efficiency measures; and

(5) Exclude savings that are not properly attributable to measures carried out by Efficiency Maine or on behalf of Efficiency Maine; and

B. Procedures and standards for 3rd-party verification of reported electricity savings, natural gas savings and heating fuel savings.

4. Rules. The commission shall adopt rules necessary to implement this section. Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

VI. WORKFORCE DEVELOPMENT

In general, workforce development should follow best practices of fostering industry partnerships, creating career pathways, and providing investment proportional to workforce demand created by efficiency investment. Opportunity Maine has recommended in the past that 1% of funds go to partnerships and program development, and 4% of funds go to direct support of workers on the model of Maine's Competitive Skills Scholarship Program. The Committee could set workforce development funding at 5% of program funds, or might set a lower floor (no lower than 2%), in either case accounting for the proportion of workforce development funds in federal energy-related programs. The Committee should also allow Career and Technical Education centers to receive grants in the same manner that other training providers do.

Initially, this workforce development structure could be funded from both ARRA formula and competitive grants. The Maine Jobs Council has developed their plan for use of Workforce Investment Act – ARRA funds, which would dedicate nearly all funds to a structure similar to what was in LD 1181, and dedicates half the funds for energy and green jobs. Ensuring coordination of this with any new efficiency entity's programs will be essential to success. The public comment period on their proposed plan is open through Friday, May 08, 2009. Further capitalization of this structure should come from an ARRA competitive grant for Green Jobs Act funding, of which \$500 million is available nationally. The structure in LD 1181 is explicitly and precisely what is required for a GJA grant. Initial funding for workforce development should focus on skills upgrading and expansion of existing workforce. Too many people without the necessary skills have flooded the market and have the potential to give efficiency a bad name due to poor quality work.

Generally, Opportunity Maine would strongly suggest that the Committee include a directive to relevant state agencies to develop a comprehensive strategy for applying for ARRA competitive grants for energy efficiency, renewable energy and workforce development. Otherwise, tens of millions of dollars will be left on the table.

Suggested language changes are below. Two options are presented for state agencies to plan for workforce development. The first builds on the Bartlett bill's structure. The second takes the structure from LD 1181, but makes sector partnership grants optional rather than mandatory.

A. Certification

Under new section 10104,

7. Certification. The trust, in consultation with the Department of Labor, shall by rule establish certification standards for energy auditors, installers of energy efficiency measures, or other service providers that provides services under programs administered by the trust. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

B. Training programs administered by the trust

§ 10113. Training for installers of solar equipment

1. Installation training. To the extent that funds and resources allow, the trust may establish training programs for installers of solar equipment that most effectively meet the needs of the public, to the extent the programs are integrated with existing workforce development programs and take account of existing training programs, curricula and career pathways. In establishing such training programs, the trust:

A. May develop separate programs for different solar technologies or applications when the trust determines that the skills or training for the installation of those technologies or applications merit the distinction;

B. Shall confer with the Plumbers' Examining Board as established in Title 5, section 12004-A, subsection 2 and the Electricians' Examining Board as established in Title 5, section 12004-A, subsection 13 when it develops the course content and requirements;

C. Shall determine, in coordination with the Department of Labor, the content of the training, the hours required for course completion and the manner in which applicants for certification under this section must demonstrate proficiency in solar equipment installation;

D. Shall issue a certificate of completion to individuals who meet the requirements the trust has established;

E. May establish reasonable course fees. All fees must be paid to the Treasurer of State to be used by the trust for the purposes of this subsection;

F. Shall determine, in coordination with the Department of Labor, terms for the expiration and renewal of a certificate of completion; and

G. Shall determine, in coordination with the Department of Labor, an appropriate means of maintaining recognition of the training received by persons holding certificates issued pursuant to former Title 32, chapter 87, or under former Title 35-A, section 10002.

2. Qualifications for installing solar equipment. A certificate of completion issued by the trust pursuant to subsection 1 does not exempt the holder from any applicable licensing requirements for activities involved in installing solar equipment, including but not limited to licensing requirements established in Title 32, chapter 17 or 49.

§ 10114. Training for energy auditors

1. Auditor training. To the extent that funds and resources allow, the trust may, in coordination with the Department of Labor, set standards for training programs for energy auditors that most effectively meet the needs of the public, , to the extent the programs are integrated with existing workforce development programs and take account of existing training programs, curricula and career pathways. The trust may also establish such training programs, to the extent the programs are integrated with existing workforce development programs and take account of existing training programs, curricula and career pathways For the purpose of this subsection, an energy auditor is a person who is trained to prepare a report that delineates the energy consumption characteristics of a building, identifies appropriate energy efficiency operations and maintenance procedures and recommends appropriate energy efficiency measures. If it does establish such programs, the trust:

A. May develop separate programs for audits of different building types and functions when the trust determines that the skills or training needed to perform these audits merit the distinction;

B. Shall determine, in coordination with the Department of Labor, the content of the training, the hours required for course completion and the manner in which applicants for certification under this subsection must demonstrate proficiency in energy auditing;

C. Shall issue a certificate of completion to individuals who meet the requirements the trust has established;

D. May establish reasonable course fees. All fees must be paid to the Treasurer of State to be used by the trust for the purposes of this subsection;

E. Shall determine, in coordination with the Department of Labor, terms for the expiration and renewal of a certificate of completion;

F. Shall determine, in coordination with the Department of Labor, an appropriate means of maintaining recognition of the training received by persons holding a certification; and

G. Shall work with state agencies and other interested parties, including but not limited to representatives of industry, labor, education and training institutions, and populations that are disadvantaged or under-represented in the building trades, to establish standards through which energy auditors who perform any work under programs by the trust are certified.

Efficiency Maine shall in its sole discretion determine whether individuals are qualified to perform work that is partly subsidized by Efficiency Maine, including contractors in programs administered by or jointly with the Maine State Housing Authority.

§ 10114-A. Other certification programs

The trust may establish a training or certification program for persons who install, maintain or use energy technologies or who must comply with energy-related standards or practices required by statute.

§ 10114-B. Minimum funding levels

The trust shall expend at least 5% [2%] of total program funds on training and workforce development. Training and workforce development funds may be transferred to the Department of Labor to foster industry partnerships to meet training needs related to the trust's programs, to develop curricula and career ladders related to such needs, and to provide direct support to workers pursuing training in occupations related to the trust's program, in the same manner such support is provided under the Competitive Skills Scholarship Program.

C. CTE Grants

The following language can be adapted from LD 1181 to ensure that CTEs can receive grants for program development, etc.:

Sec. C-3. 20-A MRSA §15681, sub-§6 is enacted to read:

6. Targeted workforce development funds. A school administrative unit may receive targeted workforce development funds from any source, including but not limited to the Efficiency Maine Trust, and must expend those funds in accordance with any requirements imposed on the use of the funds.

Sec. C-4. 20-A MRSA §15697 is enacted to read:

§ 15697. Workforce development funds; outside the funding formula

To receive targeted workforce development funds from any source, including but not limited to the Efficiency Maine Trust, a school administrative unit must meet the requirements imposed on the use of the funds, as well as all other relevant requirements of this Title. Funds received by a school administrative unit from the Efficiency Maine Trust may not be included in any of the calculations made under this chapter and are not part of the total cost components of essential programs and services.

D. Part G: Workforce Development – Approach 1

Sec. G-1. Workforce Development. The Department of Labor shall:

1. Needs Assessment. By November 1, 2009, and in consultation with stakeholders, including but not limited to the Efficiency Maine Trust, the Office of Energy Independence and Security, the Department of Economic and Community Development, the Executive Department, the State Planning Office, the Maine Jobs Council, leaders of the State's career and technical educational system, the Maine Community College System, the University of Maine System, the Maine Technology Institute, the Public Utilities Commission, the Maine State Housing Authority, community action agencies, business leaders and industry associations and organizations in green energy economy industries, representatives of labor organizations in the building trades, nonprofit organizations that focus on environmental issues and workforce development and governmental and nonprofit entities that focus on economic development issues, perform an assessment of the energy efficiency and green industry workforce development needs in this State.

2. Plan. Develop, in consultation with the stakeholders identified in subsection 1, a specific, detailed plan for providing classroom and on-the-job training, with a focus on developing career ladders and pathways, and on meeting the needs of targeted populations and of other populations that are under-represented in the building trades workforce, including women. Strategic objectives for the plan must include: Recruiting key stakeholders in the relevant industry and regularly convening the stakeholders in a collaborative structure that supports the sharing of information, ideas and challenges common to the industry cluster; identifying the training needs of multiple businesses, especially skills critical to competitiveness and innovation in the industry cluster; facilitating economies of scale by aggregating training and education for multiple employers; helping secondary, adult, vocational and postsecondary educational institutions and training institutions align curricula and programs to industry demand, particularly for higher skill, high-priority occupations identified for the industry cluster; informing and collaborating with organizations such as youth councils, business-education partnerships, apprenticeship programs, secondary schools and postsecondary educational institutions and with parents and career counselors for the purpose of addressing the challenges of connecting disadvantaged adults and youth to careers; helping companies to identify and work together to address common organizational and human resource challenges, such as recruiting new workers, implementing effective workplace practices, retaining dislocated and incumbent workers, implementing a high-performance work organization, recruiting and retaining women in nontraditional occupations, adopting new technologies and fostering on-the-job learning; developing and strengthening career ladders within and across companies and in cooperation with any labor organizations representing employees engaged in similar work in the industry cluster in order to enable dislocated, incumbent and entry-level workers to improve skills and advance to higher-wage jobs; improving job quality through improving wages, benefits and working conditions; helping companies in industry or sector partnerships to attract potential employees from a diverse base, including individuals with barriers to employment, such as economically disadvantaged individuals, youth, older workers and individuals who have completed a term of imprisonment, by identifying barriers through

analysis of the existing labor market and implementing strategies to help workers overcome such barriers; and strengthening connections among businesses in the industry cluster, leading to cooperation beyond workforce issues to improve competitiveness and job quality, such as joint purchasing and market research.

3. Report; legislation. Submit to the Joint Standing Committee on Utilities and Energy Matter by January 1, 2010, a report detailing

Sec. G-2. Department of Labor recommendations. The Department of Labor, in consultation with the stakeholders listed in the Maine Revised Statutes, Title 26, section 2041, subsection 3, shall make recommendations to the Department of Professional and Financial Regulation for the report that the Department of Professional and Financial Regulation is required to prepare pursuant to Resolves 2007, chapter 219.

E. Part G: Workforce Development – Approach 2

Sec. G-1. 26 MRSA c. 25, sub-c. 6 is enacted to read:

SUBCHAPTER 6

GREEN ENERGY JOB GROWTH INITIATIVE

§ 2041. Green Energy Job Growth Initiative

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Career ladder" means an identified series of positions, work experiences and educational benchmarks or credentials that offer occupational and financial advancement within a specified career field or related fields over time.

B. "Department" means the Department of Labor.

C. "Fund" means the Green Energy Job Growth Fund established in subsection 2, paragraph A.

D. "Green energy economy" means the portion of the economy relating to energy efficiency, energy demand reduction, peak load reduction and renewable energy as these factors relate to building, facility, appliance and related consumption of energy, but not as they relate to transportation.

E. "Industry cluster" means a concentration of interconnected businesses, suppliers, service providers and associated institutions in a particular field that are linked by common workforce needs.

F. "Industry or sector partnership" means a green energy economy workforce

collaborative as established under subsection 7.

G. "Target populations" means:

(1) Entry-level or incumbent workers in high-demand green energy economy industries as established pursuant to subsection 5 who are in, or are preparing for, high-wage occupations;

(2) Dislocated workers in declining industries who can be retrained for high-wage occupations in high-demand green energy economy industries;

(3) Dislocated agriculture, timber or energy sector workers who can be retrained for high-wage occupations in high-demand green energy economy industries;

(4) Veterans or Maine National Guard members;

(5) Disadvantaged populations as determined by the department; or

(6) Persons eligible to participate in the Competitive Skills Scholarship Program under section 2033.

H. "Workforce intermediary" means an entity that proactively addresses workforce needs in an industry and improves regional competitiveness by working with and considering the needs of employers, workers, job seekers and other stakeholders, with a focus on developing career ladders, education and training services and related support services to help low-income workers enter higher-wage and skilled jobs in the industry.

2. Initiative and fund established. The department shall establish and administer a comprehensive green energy economy industry and workforce development program called the Green Energy Job Growth Initiative.

A. The Green Energy Job Growth Fund is established as a nonlapsing fund in the department to be used for the purposes of this section. The fund receives funds from the Efficiency Maine Trust and may receive any other funds appropriated or allocated to the fund as well as any other funds accepted by the department for deposit in the fund. Unexpended balances in the fund at the end of a fiscal year may not lapse, but are carried forward to the next fiscal year to be used for the same purposes. All funds appropriated, allocated or otherwise directed to the fund must be deposited in the fund.

B. Except as otherwise provided by law, the department is the designated state agency to receive and administer federal funds for workforce development in green energy economy industries and any federal funds received for that purpose must be deposited in the fund.

3. Development of terminology. The department, in consultation with stakeholders, including but not limited to the Efficiency Maine Trust, the Office of Energy Independence and Security, the Department of Economic and Community Development, the Executive Department, the State Planning Office, the Maine Jobs Council, leaders of the State's career and technical educational system, the Maine Community College System, the University of Maine System, the Maine Technology Institute, the Public Utilities Commission, the Maine State Housing Authority, community action agencies, business leaders and industry associations and organizations in green energy economy industries, representatives of labor organizations in the building trades, nonprofit organizations that focus on environmental issues and workforce development and governmental and nonprofit entities that focus on economic development issues, shall develop and maintain a list of defined terms, consistent with current workforce and economic development terms, associated with green energy economy industries and jobs.

4. Labor market, workforce and industry analysis. The department shall:

A. In consultation with the stakeholders listed in subsection 3, conduct ongoing labor market research to analyze the current labor market and projected job growth in the green energy economy, the current and projected recruitment and skill requirement of green energy economy industry employers, the wage and benefits ranges of jobs within green energy economy industries and the education and training requirements of entry-level and incumbent workers in those industries; and

B. In consultation with the stakeholders listed in subsection 3, the Department of Professional and Financial Regulation and any relevant boards established pursuant to Title 5, section 12004-A and pursuant to the analysis under paragraph A, develop findings and recommendations regarding comprehensive career ladders for the jobs identified in that analysis, and make findings and provide recommendations to appropriate agencies or entities regarding measures to support and facilitate the movement of workers up those career ladders, including but not limited to recommendations for appropriate curricula for and linkages between relevant State programs, revisions to building trades curricula to integrate skills related to the green energy economy, establishment of skill certifications for incumbent workers, revisions to licensing standards, changes to the responsibilities of boards established under Title 5, section 12004-A and creation of additional boards pursuant to Title 5, section 12015.

(1) In developing its recommendations, the department shall include consideration of those skills related to best environmental practices beyond those directly related to the green energy economy.

(2) Except where it does not serve the public interest to do so, the department shall use nationally recognized standards and certifications.

(3) The department shall submit recommendations for regulation of

professional or occupational groups to the Department of Professional and Financial Regulation pursuant to Title 32, section 60-J that give due consideration to the urgency of achieving the goal of reducing the State's energy costs and reliance on fossil fuels and the importance of high-quality work and universally recognized qualifications in maximizing progress toward this goal.

(4) In performing its duties under this paragraph, the department shall prioritize occupations related to the audit of energy efficiency, including but not limited to energy auditors, and occupations related to installation of distributed renewable energy technology, including but not limited to solar thermal system installers. For purposes of this paragraph, "distributed renewable energy technology" has the same meaning as in Title 35-A, section 102, subsection 4-A.

5. Designation of high-demand industries. Based on the findings under subsection 4, the department, in consultation with the stakeholders listed in subsection 3 and taking into account the requirements and goals of this section and other state clean energy and energy efficiency policies, as well as emerging technologies and innovations identified by the Department of Economic and Community Development, shall propose which industries will be considered high-demand green energy economy industries based on current and projected job creation and strategic importance to the development of the State's green energy economy. The department shall take into account which jobs within green energy economy industries will be considered high-wage occupations and occupations that are part of career ladders to high-wage occupations, based on family-sustaining wage and benefits ranges as determined by the department. The department shall provide its findings and proposals as well as the results of the department's broader labor market research under subsection 4 to the Maine Jobs Council, the State's career and technical educational centers, the Maine Community College System and the University of Maine System, and all these entities as well as the department shall use this information in making planning and strategic decisions. The department

6. Department-led partnerships. The department shall work in partnership with other governmental agencies and with industry stakeholders to develop training programs and career ladders and to provide direct support for worker training. The department's approach to industry partnerships shall reflect the requirements and considerations in subsections 7 and 8.

7. Industry or sector partnerships. The Maine Jobs Council may foster development of industry or sector partnerships.

A. An industry or sector partnership:

(1) Organizes key stakeholders in a targeted industry cluster into a working group that focuses on the human capital needs of a targeted industry cluster and that includes, at the appropriate stage of development of the partnership:

(a) Representatives of multiple firms or employers, including workers, in a targeted industry cluster, including small and medium employers when practicable;

(b) One or more representatives of state labor organizations or central labor councils;

(c) One or more representatives of local workforce investment boards;

(d) One or more representatives of training providers, including at least one representing postsecondary educational institutions and one representing secondary educational institutions and adult educational institutions, preferably from the career and technical education system; and

(e) One or more representatives of state workforce agencies or other entities providing employment services; and

(2) May include representatives of:

(a) State Government or local government, including, but not limited to, state or local economic development agencies or other state or local agencies;

(b) Chambers of commerce;

(c) Nonprofit organizations;

(d) Industry associations; and

(e) Other organizations, as determined necessary by the other members comprising the industry or sector partnership.

B. A stakeholder within an industry or sector partnership is eligible to receive grants from the fund under this section and may serve as workforce intermediary, convene and lead the partnership and serve as the fiscal agent to administer the grant. Industry or sector partnership applicants must provide to the Maine Jobs Council labor market and industry analysis that demonstrates high demand, or demand of strategic importance to the development of the State's green energy economy, for high-wage occupations, or occupations that are part of career ladders

to high-wage occupations, within the relevant industry sector. An approved industry or sector partnership shall:

(1) Conduct labor market and industry analysis, in consultation with the department, drawing on the findings of the department's research when available;

(2) Plan strategies to meet the recruitment and training needs of the industry and small businesses; and

(3) Leverage and align other public and private funding sources. Notwithstanding section 2006, subsection 5-A, paragraph I, the department and the Maine Jobs Council shall work with the State's career and technical education centers and labor affiliates administering state-approved, joint apprenticeship programs or labor-management partnership programs that train workers to provide appropriate education and training below the associate degree level, particularly within the building trades.

8. Expenditures from fund. The department may use funds in the fund solely to carry out the purposes of this section.

A. Except as provided in this paragraph, the department may award planning, implementation, renewal and other grants under this paragraph. The awards must be made on a competitive bid basis. The department may make grants under this paragraph only if the department determines that other public or private funds are insufficient or unavailable for the purpose. The department shall ensure that all grants made under this paragraph are fully expended or obligated to be expended by the last day of the grant period and that any money that is unexpended by the last day of the grant period is returned to the fund.

(1) The department may award a planning grant for a period of up to one year to a newly formed industry or sector partnership that has not previously received a grant under this section.

(2) The department may award an implementation grant for a grant period of up to 3 years to an industry or sector partnership that has received a planning grant under this section or to an established industry or sector partnership.

(3) The department may award a renewal grant for a grant period of up to 3 years to an industry or sector partnership that has received an implementation grant under this section. The department shall prioritize renewal grants to industry or sector partnerships that can demonstrate long-term sustainability and shall, as a condition of renewing the grant, require significantly increased leveraging of additional public and private funds by the partnership compared to the preceding year of the implementation grant.

(4) In order to qualify for a grant under this paragraph, an industry or sector partnership shall identify an industry cluster that could benefit from such a grant by:

(a) Working with businesses, industry associations and organizations, labor organizations, state boards, local boards, economic development agencies and other organizations that the industry or sector partnership determines necessary to identify an appropriate industry cluster based on criteria that include, at a minimum:

(i) Data showing the competitiveness of the industry cluster;

(ii) The importance of the industry cluster to the economic development of the area served by the industry or sector partnership;

(iii) The identification of supply and distribution chains within the industry cluster; and

(iv) Research studies on industry clusters; and

(b) Working with appropriate employment agencies, workforce investment boards, economic development agencies, community organizations and other organizations that the industry or sector partnership determines necessary to ensure that the industry cluster identified under division (a) should be targeted for investment, based primarily on the following criteria:

(i) Potential for job growth;

(ii) Competitiveness;

(iii) Employment base;

(iv) Wages and benefits;

(v) Demonstrated importance of the industry cluster to the local economy and to the green energy economy; and

(vi) Workforce development needs.

(5) An industry or sector partnership seeking a grant under this paragraph shall submit an application to the department at such time, in such manner and containing such information as the department may require, including, at a minimum:

(a) A description of the industry or sector partnership, evidence of its capacity to carry out activities in support of the strategic objectives identified in the application under division (d) and a description of the expected participation and responsibilities of each of the stakeholders in subsection 7, paragraph A, subparagraph (1);

(b) A description of the industry cluster for which the industry or sector partnership intends to carry out activities through a grant under this section and a description of how the industry cluster was identified in accordance with subparagraph (4);

(c) A description of the workers who will be recruited by the industry or sector partnership, including an analysis of the existing labor market, a description of potential barriers to employment for workers and a description of strategies that will be employed to help workers overcome such barriers;

(d) A description of the strategic objectives that the industry or sector partnership intends to carry out for the industry cluster, which must include:

(i) Recruiting key stakeholders in the industry cluster, such as businesses and employers, labor organizations, industry associations, local and state workforce investment boards and education and training providers, and regularly convening the stakeholders in a collaborative structure that supports the sharing of information, ideas and challenges common to the industry cluster;

(ii) Identifying the training needs of multiple businesses, especially skills critical to competitiveness and innovation in the industry cluster;

(iii) Facilitating economies of scale by aggregating training and education for multiple employers;

(iv) Helping secondary, adult, vocational and postsecondary educational institutions and training institutions align curricula and

programs to industry demand, particularly for higher skill, high-priority occupations identified for the industry cluster;

(v) Ensuring coordination with the department so that the department informs recipients of unemployment insurance and trade adjustment assistance under the federal Trade Act of 1974, 19 United States Code, Section 2101 et seq. of the job and training opportunities that may result from the implementation of this grant;

(vi) Informing and collaborating with organizations such as youth councils, business-education partnerships, apprenticeship programs, secondary schools and postsecondary educational institutions and with parents and career counselors for the purpose of addressing the challenges of connecting disadvantaged adults and youth to careers;

(vii) Helping companies to identify and work together to address common organizational and human resource challenges, such as recruiting new workers, implementing effective workplace practices, retaining dislocated and incumbent workers, implementing a high-performance work organization, recruiting and retaining women in nontraditional occupations, adopting new technologies and fostering on-the-job learning;

(viii) Developing and strengthening career ladders within and across companies and in cooperation with any labor organizations representing employees engaged in similar work in the industry cluster in order to enable dislocated, incumbent and entry-level workers to improve skills and advance to higher-wage jobs;

(ix) Improving job quality through improving wages, benefits and working conditions;

(x) Helping companies in industry or sector partnerships to attract potential employees from a diverse base, including individuals with barriers to employment, such as economically disadvantaged individuals, youth, older workers and individuals who have completed a term of imprisonment, by identifying barriers through analysis of the existing labor market and implementing strategies to help workers overcome such barriers; and

(xi) Strengthening connections among businesses in the industry cluster, leading to cooperation beyond workforce issues to improve competitiveness and job quality, such as joint purchasing and market

research;

(e) A description of the manner in which the eligible entity intends to make sustainable progress toward the strategic objectives described in division (d);

(f) Performance measures, with quantifiable benchmarks, for measuring progress toward the strategic objectives. Such measures must consider, at a minimum, the benefits provided by the grant activities funded under this section for:

(i) Workers employed in the industry cluster, disaggregated by gender and race, including the number of workers receiving portable industry-recognized credentials; the number of workers with increased wages, the percentage of workers with increased wages, and the average wage increase; and, for dislocated or nonincumbent workers, the number of workers placed in sector-related jobs; and

(ii) Firms and industries in the industry cluster, including the creation or updating of an industry plan to meet current and future workforce demand; the creation or updating of published industry-wide skill standards or career ladders; the creation or updating of portable, industry-recognized credentials, or where there is not such a credential, the creation or updating of a training curriculum that can lead to the development of such a credential; in the case of an eligible entity that is an industry or sector partnership, the number of firms, and the percentage of the local industry, participating in the industry or sector partnership; and the number of firms, and the percentage of the local industry, receiving workers or services through the grant funded under this section;

(g) A timeline for achieving progress toward the strategic objectives; and

(h) In the case of an industry or sector partnership desiring an implementation grant under this section, an assurance that the industry or sector partnership will leverage other funding sources to provide training or support services to workers under the grant program.

(6) The department may award one-time grants to entities eligible under this paragraph for the purposes of curriculum development, development of transitional jobs strategies for dislocated workers in declining industries who may be retrained for high-wage occupations in green energy economy industries, workforce education to target populations and adult basic and

remedial education linked to occupation skills training, to the extent the department determines such purposes are better achieved through making such grants than through planning, implementation and renewal grants made under subparagraph (1), (2) or (3).

(a) A recipient of a grant under this subparagraph may be any organization that has demonstrated expertise in:

(i) Implementing effective education and training programs that meet industry demand; and

(ii) Recruiting and supporting workers from the target populations.

(b) In awarding grants under this paragraph, the department shall give priority to applicants that demonstrate the ability to:

(i) Use labor market and industry analysis developed by the department and by industry or sector partnerships in the design and delivery of the relevant education and training programs and otherwise use strategies developed by industry or sector partnerships;

(ii) Leverage and align existing public programs and resources and private resources toward the goal of recruiting, supporting, educating and training workers from the target populations;

(iii) Work collaboratively with other relevant stakeholders in the regional economy;

(iv) Link adult basic and remedial education, where necessary, with occupation skills training;

(v) Involve employers and labor unions in the determination of relevant skills and competencies and, where relevant, the identification of career ladders; and

(vi) Ensure that support services, where necessary, are integrated with education and training and are delivered by organizations with direct access to and experience with the target population of workers.

B. In 2009, 2010 and 2011, the department may expend up to 30% of the funds received from the Efficiency Maine Trust for the administrative costs of performing

duties outlined in this section and to support performance by the Department of Economic and Community Development of its duties under this section. In 2012 and thereafter, the department may expend up to 11% of the funds received pursuant to Title 35-A, section 10009 for administrative costs under this section.

C. The department shall expend funds received from the Efficiency Maine Trust and not expended under paragraph A or B to provide direct support to individuals pursuing education and training in accordance with the goals of this section. The department shall apply the funds in the same manner as the Competitive Skills Scholarship Program under section 2033 and rules adopted under that section. The department shall adopt or amend rules under section 2033 to ensure the use of such funds is consistent with the purposes of this section.

D. The department shall apply funds in the fund received from sources other than the Efficiency Maine Trust in accordance with any applicable requirements or limitations placed on the use of such funds. In the absence of any contrary requirements, the department shall apply the funds in the same manner as prescribed in this subsection for funds received from the Efficiency Maine Trust, and may expend up to 20% on grants in accordance with paragraph A, up to 2% on administrative costs pursuant to paragraph B and the remainder on direct support to individuals pursuing education and training pursuant to paragraph C.

Sec. G-2. Department of Labor recommendations. The Department of Labor, in consultation with the stakeholders listed in the Maine Revised Statutes, Title 26, section 2041, subsection 3, shall make recommendations to the Department of Professional and Financial Regulation for the report that the Department of Professional and Financial Regulation is required to prepare pursuant to Resolves 2007, chapter 219.

State of Maine
Legislative Joint Select Committee on Maine's Energy Future

Re: Bartlett Draft of May 5, 2009

§ 10109. Regional Greenhouse Gas Initiative Trust Fund

Suggested Amendment May 8, 2009

**National Association of Energy Services Companies (NAESCO), ECR
International, Capstone Turbine Corporation**

**Ruben S. Brown, President
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The E Cubed Company, LLC on behalf of the National Association of Energy Services Companies (NAESCO) and ECR International/Climate Energy support the following amendments to the RGGI section and energy efficiency sections. In addition to “trade association aggregators”, other not-for-profit organizations and for-profit businesses should be allowed to aggregate end-users for the purpose of receiving or providing electrical efficiency services or bidding on electrical efficiency contracts.

§ 10109. Regional Greenhouse Gas Initiative Trust Fund

1. Definitions.

D. “Trade Association aggregator” of a trade association together for the purpose of receiving or providing electrical efficiency services or bidding on electrical efficiency contracts.

New F. “Energy Efficiency Services Provider” shall include for-profit businesses and not-for-profit organizations that may provide energy efficiency services and technologies for single end-users and/or aggregated groups of end-users, whether organized via trade associations or not.

- Energy Performance contractors shall specifically be eligible to participate in activities of Regional Greenhouse Gas Initiative Trust Fund.
- Energy Efficiency Services Providers will be eligible to function as a trade association aggregator in competitive bid processes (paragraph 1. D above or paragraph 4. I below).
- Energy Efficiency Services Providers may deploy energy services and facilities including combined heat and power facilities for residences, commercial industrial and facilities of units of government.

4. Expenditures; projects.

A. During the years 2009, 2010 and 2011 not less than 85% of the trust fund must be allocated for measures, investments and arrangements that reduce electricity consumption, and not more than 15% must be allocated for fossil fuel conservation measures, investments and arrangements. Subject to the apportionment between fossil fuel and electricity conservation pursuant to this subsection, the trust shall fund conservation programs that give priority to measures with the highest benefit to-cost ratio, as long as both short- and long-term cost-effective collateral efficiency opportunities are not lost, and that:

- (1) Reliably reduce greenhouse gas production by fossil fuel combustion in the State at the lowest cost in trust funds per unit of emissions; or
- (2) Reliably reduce the consumption of grid produced electricity in the State at the lowest cost in trust funds per kilowatt hour saved.

D. Nonelectric savings programs must be used to maximize fossil-fueled energy efficiency and conservation and associated greenhouse gas reductions, subject to the apportionment between fossil fuel and electricity conservation set forth in paragraph A. Non electric savings of combined heat and power and waste energy projects will be eligible to maximize fossil-related energy efficiency.

I. A trade association aggregator is eligible to participate in competitive bid processes under this subsection, including Energy Efficiency Services Providers as defined in new provision 1. F above.

Thank you for the opportunity to contribute to this bill's improvement.

Very Truly Yours,

A handwritten signature in cursive script, reading "Ruben S. Brown".

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